

Committee Room,
Austin, Texas, Feb. 9, 1925.
Hon. Barry Miller, President of the
Senate.

Sir: We, your Committee on En-
rolled Bills, have had S. B. No. 186
carefully examined and compared, and
find the same correctly enrolled, and
have this day at 11 o'clock a. m. pre-
sented same to the Governor for her
approval.

FLOYD, Chairman.

TWENTY-SECOND DAY.

Senate Chamber,
Austin, Texas,
Tuesday, February 10, 1925.

The Senate met at 10 o'clock a. m.
pursuant to adjournment, and was
called to order by Lieutenant Gov-
ernor Barry Miller.

The roll was called, a quorum being
present, the following Senators an-
swering to their names:

Bailey.	Parr.
Berkeley.	Pollard.
Bledsoe.	Price.
Davis.	Real.
Fairchild.	Reid.
Floyd.	Russek.
Hardin of Erath.	Smith.
Hardin of Kaufman	Strong.
Holbrook.	Stuart.
Lewis.	Triplett.
Miller.	Ward.
Moore of Hunt.	Wirtz.
Moore of Cooke.	Witt.
Murphy.	Wood.
Parnell.	Woodward.

Absent—Excused.

Bowers.

Prayer by the chaplain.

Pending the reading of the Journal
of yesterday, the same was dispensed
with on motion of Senator Davis.

Petitions and Memorials.

The Chair had read to the Senate,
numerously signed by dealers of Dal-
las, protesting the passage of a bill
placing additional tax on cigars.

Simple Resolution No. 35.

By Senator Stuart:

Whereas, Senate Bill No. 169 which
was finally passed in the Senate and
has now gone to the House, contains
nearly 100 printed pages; and

Whereas, Considerable time and ex-
pense will be consumed if the State
is required to reprint the bill; and

Whereas, There are now about 100
extra copies of said bill in the hands
of the Sergeant-at-Arms of the Senate;
and

Whereas, The House Committee on
Mining, Irrigation and Drainage, has
voted same out and recommended that
it be not printed with the request that
the extra printed copies in the hands
of the Sergeant-at-Arms in the Senate
be distributed among the members of
the House; therefore be it

Resolved, That the Sergeant-at-Arms
of the Senate be instructed to deliver
the extra copies of said bills which are
now in his possession to the Sergeant-
at-Arms of the House for distribution.

The resolution was read and
adopted.

Morning call concluded.

Senate Bill No. 64.

The Chair laid before the Senate, on
third reading, as pending business
from yesterday S. B. No. 64, known as
the real estate bill.

The bill was read third time on yes-
terday. The yeas and nays were
called, and the bill was finally passed
by the following vote:

Yeas—13.

Berkeley.	Real.
Bledsoe.	Reid.
Floyd.	Stuart.
Moore of Hunt.	Triplett.
Murphy.	Witt.
Parnell.	Wood.
Parr.	

Nays—10.

Bailey.	Moore of Cooke.
Davis.	Smith.
Hardin of Erath.	Strong.
Hardin of Kaufman	Ward.
Miller.	Woodward.

Absent.

Fairchild.	Price.
Holbrook.	Russek.

(Pairs Recorded.)

Senator Lewis (present), who would
vote nay; with Senator Bowers (ab-
sent), who would vote yea.

Senator Pollard (present), who
would vote yea; with Senator Wirtz
(absent), who would vote nay.

Message from the House.

Hall of the House of Representatives,
Austin, Texas, Feb. 10, 1925.

Hon. Barry Miller, President of the
Senate.

Sir: I am directed by the House
to inform the Senate that the House
has passed the following bills and
resolution:

Failed to pass to engrossment.

H. B. No. 98, A bill to be entitled
"An Act amending Article 2862,
Title 48, Chapter 16, Revised Stat-
utes, 1911, as amended by Chapter
35, Acts Thirty-eighth Legislature,
Second Called Session, which is an
Act authorizing independent school
districts to employ their own tax as-
sessors and have their taxes collected
by the county tax collector without
being required to have their assess-
ments made at the same valuations
that are used for State and county
taxation, and providing that in no
event shall property be assessed for
more than its fair market value, or
if it be greater than its real value,
and declaring an emergency."

Amended by striking out the enact-
ing clause.

H. B. 272, A bill to be entitled
"An Act requiring establishments,
buildings or rooms where food is
manufactured, cooked, prepared or
stored, for sale, or sold, or distrib-
uted to the public, to be kept or
maintained in a clean, healthful and
sanitary condition, and defining what
is meant by unclean, unhealthful and
unsanitary conditions; requiring the
doors, windows and other openings
of such establishments, building,
room or rooms, during the fly sea-
son, to be screened, unless adequate-
ly protected from flies, or other in-
sects, by electric fans; making it un-
lawful to use or maintain a toilet,
commode, urinal or other similar de-
vice in a room where food is manu-
factured, cooked, prepared or dis-
tributed to the public, and making
it unlawful to use or maintain such
toilet room which opens directly into
a room where food is thus dealt in;
making it unlawful for any person
or persons to sleep or maintain liv-
ing quarters in such rooms, and pro-
hibiting persons effected with infec-
tious or contagious disease or dis-
eases from working therein; pre-
scribing the duties and powers of
State, county and city health offi-
cers; defining what is meant by
food; making it unlawful for any
person, firm, corporation, joint stock

association or agent engaged in the
business of compounding or prepar-
ing medicine to sell, offer to sell,
expose for sale, or deliver for sale,
for human consumption, any food
cooked, or prepared, or delivered
prepared by such person, persons,
firm, corporation, joint stock associa-
tion or agent in or on the estab-
lishment, building, place of business
or room where such prescriptions
are filled or such medicine is com-
pounded or prepared, or delivered
prepared, and making it unlawful
for any person, firm, corporation,
joint stock company, association or
agent to sell, expose for sale, offer
for sale, or to sell, any such food in
the same establishment, building,
place of business or room where
such prescriptions are filled or such
medicine is compounded or prepared
or delivered prepared; prescribing a
penalty, and declaring an emer-
gency."

H. B. No. 285, A bill to be entitled
"An Act to create the Kitchens Com-
mon School District in Menard Coun-
ty, Texas, including therein the pres-
ent Kitchens Common School Dis-
trict No. 8 in Menard County; pro-
viding a board of trustees therefor,
vesting said common school district
board of trustees with all the rights,
powers, privileges and duties con-
ferred upon common school districts
incorporated under the General Laws
of Texas; and providing for a board
of trustees to serve until the time
for the next election of school trus-
tees as provided by General Law;
providing for the validation of all
contracts, bonds or other valid in-
debtedness and tax levies of the
present Kitchens District No. 6, as
the subsisting obligations and acts
of the Kitchens Common School Dis-
trict, as created by this Act, and de-
claring an emergency."

H. C. R. No. 13, Relative to the
Cotton Tax Refund measure now
pending before Congress.

Respectfully submitted,

C. L. PHINNEY.

Chief Clerk, House of Representatives.

Senate Bill No. 154.

The Chair laid before the Senate,
on third reading,

S. B. No. 154, A bill to be entitled
"An Act to amend Article 790 of
the Code of Criminal Procedure of
1911 of the State of Texas by omit-
ting therefrom the following: 'Pro-

vided that where there are two or more persons jointly charged or indicted, and a severance is had, the privilege of testifying shall be extended only to the person on trial.' "

The bill was read third time and passed finally.

Senate Bill No. 218.

The Chair laid before the Senate, on third reading,

S. B. No. 218, A bill to be entitled "An Act to repeal Chapter 50 of the Local and Special Laws of the Regular Session of the Thirty-eighth Legislature, which said Act became effective the 4th day of April, 1923, and which said Act created a special road system for Fayette County, Texas, and declaring an emergency."

The bill was read third time, and Senator Russek offered the following amendment, which was read and adopted, by unanimous consent:

Amend S. B. No. 218 by striking out all below the Enacting Clause, and in lieu thereof add the following:

Section 1. That Section 39 of Chapter 42 of the General Laws of the First Called Session of the Thirty-seventh Legislature, as amended, be and the same is hereby amended so as to hereafter read as follows:

"Section 39. The provisions of this Chapter are designated to embody all of the Statutes on the subject of road maintenance, and all laws and parts of laws in conflict herewith, whether special or general, are hereby repealed. Provided that none of the provisions of this Act shall apply to the counties of Anderson, Austin, Aransas, Atascosa, Archer, Angelina, Andrews, Armstrong, Bastrop, Brooks, Brazoria, Bee, Burnet, Brewster, Bandera, Bexar, Brown, Baylor, Bailey, Burleson, Briscoe, Blanco, Bosque, Bell, Borden, Brazos, Colorado, Crane, Curry, Cook, Cameron, Chambers, Calhoun, Coke, Crockett, Cuberson, Camp, Cass, Comanche, Coleman, Concho, Clay, Cottle, Cochran, Crosby, Childress, Castro, Collingsworth, Carson, Caldwell, Comal, Coryell, Callahan, Collin, Duval, DeWitt, Denton, Dallas, Dickens, Donley, Deaf Smith, Dallam, Delta, Dawson, Ector, Eastland, Ellis, Erath, Edwards, El Paso, Fannin, Fayette, Frio, Foard, Floyd, Fort Bend, Falls, Freestone, Franklin, Fisher, Gregg, Gaines, Garza, Grimes, Grayson, Galveston, Goliad, Gillespie, Gray, Guadalupe,

Gonzales, Gasscock, Hardin, Hidalgo, Hudspeth, Henderson, Hemphill, Hardeman, Hale, Hall, Hockley, Hartley, Hutchinson, Hansford, Hays, Harris, Hood, Hopkins, Hamilton, Houston, Hill, Haskell, Hunt, Irion, Jim Hogg, Jim Wells, Jackson, Jeff Davis, Jack, Jones, Johnson, Jefferson, Jasper, Kent, Kendall, Kleberg, Kennedy, Karnes, Kimble, Kendall, Kinney, Kerr, Kaufman, King, Knox, Lavaca, Loving, Liberty, Lamar, Limestone, Lynn, Lee, Llano, Leon, LaSalle, Lampasas, Live Oak, Lamb, Lubbock, Lipscomb, Marion, Morris, Martin, Midland, Madison, Montgomery, Dimmitt, McMullen, Matagorda, Mason, Marion, Maverick, Medina, Montague, Menard, McCulloch, Mills, Motley, Moore, McLennan, Milam, Mitchell, Nacogdoches, Nolan, Newton, Nueces, Navarro, Oldham, Ochiltree, Orange, Palo Pinto, Polk, Parker, Pecos, Presidio, Parmer, Potter, Panola, Robertson, Red River, Reagan, Reaves, Real, Rockwall, Runnels, Randall, Roberts, Refugio, Stonewall, Shackelford, Sabine, San Jacinto, San Patricio, Starr, Schleicher, Sterling, Sutton, Smith, San Saba, Swisher, Sherman, Shelby, Taylor, Trinity, Terry, Travis, Terrell, Tom Green, Throckmorton, Titus, Upton, Uvalde, Upshur, Victoria, Val Verde, Van Zandt, Ward, Walker, Wise, Winkler, Wharton, Wheeler, Washington, Wilson, Williamson, Walker, Waller, Webb, Willacy, Wood, Wichita, Wilbarger, Yoakum, Young, Zapata and Zavalla; and any and all General Laws affecting Fayette County which were repealed by said Chapter 42, as amended, are hereby revived and shall hereafter be in force and effect the same as if said Chapter 42, as amended, had never been enacted insofar as said Fayette County is concerned.

Sec. 2. The importance of this Act, and the fact that the road law mentioned in the caption is inadequate and unsuited to the conditions and sentiment of the county named in the caption hereof, creates an emergency and an imperative public necessity, requiring the suspension of the constitutional rule requiring bills to be read on three several days in each House, and that this Act shall take effect and be in force from and after its passage, and said rule is hereby suspended, and it is so enacted.

Senator Russek offered the following amendment, which was read and adopted:

Amend S. B. No. 218 by striking out the caption and insert in lieu thereof the following:

A BILL

To Be Entitled

An Act amending Section 39 of Chapter 42, General Laws of the First Called Session of the Thirty-seventh Legislature, as amended, relative to public roads and highways, so as to except and exempt from the provisions of said chapter the county of Fayette; and declaring an emergency.

The bill was finally passed, by the following vote:

Yeas—28.

Bailey.	Parr.
Berkeley.	Pollard.
Bledsoe.	Price.
Davis.	Real.
Floyd.	Reid.
Hardin of Erath.	Russek.
Hardin of Kaufman	Smith.
Holbrook.	Strong.
Lewis.	Stuart.
Miller.	Triplett.
Moore of Hunt.	Ward.
Moore of Cooke.	Witt.
Murphy.	Wood.
Parnell.	Woodward.

Absent.

Fairchild. Wirtz.

Absent—Excused.

Bowers.

Senate Bill No. 74.

The Chair laid before the Senate, on third reading,

S. B. No. 74, A bill to be entitled "An Act to provide for the construction and maintenance of a State Highway System under the direct control of the State Highway Department and with appropriations out of the State Highway Fund; authorizing the commissioners' court of any county to grant aid for the improvement by the State Highway Department of any section or sections of said highway system located in said county; regulating the manner of paying such aid; regulating the making of contracts by the State Highway Department for the improvements, etc., and declaring an emergency."

The bill was read second time and passed to engrossment.

House Bill on First Reading.

The following House Bill was laid before the Senate, read first time and referred to appropriate committee:

H. B. No. 285, referred to Committee on Educational Affairs.

H. C. R. No. 13.

The Chair laid before the Senate, H. C. R. No. 13, relative to the Cotton Tax Refund measure pending before Congress.

The resolution was read and adopted.

Senate Bill No. 81.

The Chair laid before the Senate, on second reading,

S. B. No. 81, A bill to be entitled "An Act to amend Subdivision 2 of Section 7 of Chapter 83 of the Acts of the Regular Session of the Thirty-fifth Legislature approved March 15, 1917, relating to the prospecting for and the development of minerals and other substances in the public lands, islands, waters, river beds and channels owned by the State, and providing for the securing and payment for all permits for lease of said lands, especially bays, marshes, reefs, salt-water lakes and submerged lands, and declaring an emergency."

The bill was read second time and laid on table, subject to call.

Senate Bill No. 94.

The Chair laid before the Senate, on second reading,

S. B. No. 94, A bill to be entitled "An Act authorizing legislative bodies of incorporated cities and towns to provide for the promotion of health, safety, morals and general welfare of the community; to regulate and restrict the size, kind and character of buildings; the dimensions of lots, yards, etc.; the density of population and the location and use of buildings for trade, industries, residences, or other purposes; providing that said municipal legislative bodies may subdivide the municipality into districts to carry out the purposes of this Act, and within such districts to regulate construction and alteration of buildings, and the use of land therein contained to facilitate the adequate provision of transportation, water, sewerage, schools and parks, and to promote the health and general welfare; providing the method of procedure whereby such

legislative bodies shall establish regulations and restrictions to carry out the purpose of this Act; providing the manner and method of making changes in such regulations and restrictions; providing for the creation of a zoning commission and defining its powers and duties; prescribing the remedy to be pursued in case of violation of this Act or any ordinance or regulation made under authority conferred thereby; describing the manner of construing this Act with relation to other laws, ordinances and regulations; providing for the repeal of laws or parts of laws in conflict herewith, and declaring an emergency."

The committee report, with committee amendments, was adopted.

The bill was read second time and passed to engrossment.

Senate Bill No. 95.

The Chair laid before the Senate, on second reading,

S. B. No. 95, A bill to be entitled "An Act to regulate the platting and subdivision of land and the sales of small lots of land in cities and towns and within three miles thereof; requiring the approval of plats by the city or town; providing penalty for the sale of land without such approval; prohibiting the recording by the county clerk of deeds and plats without the approval by city or town, and prescribing penalties therefor; providing that all laws or parts of laws in conflict therewith are thereby repealed, and declaring an emergency."

The committee report, with committee amendments and be not printed, was adopted.

The bill was read second time and laid on the table, subject to call.

Senate Bill No. 142.

The Chair laid before the Senate, on second reading,

S. B. No. 142, A bill to be entitled "An Act amending Article 1541 of the Revised Civil Statutes of 1911, relating to writs of error before the Supreme Court so as to extend the time in certain cases for the filing of petitions for writs of error, and declaring an emergency."

The committee report, recommending a substitute bill, was adopted.

The bill was read second time and laid on the table, subject to call.

Senate Bill No. 146.

The Chair laid before the Senate, on second reading,

S. B. No. 146, A bill to be entitled "An Act to determine and regulate the pastoral rights of owners or lessees of land inclosed by fences or natural barriers or partly by fences and partly by natural barriers, among the several owners and lessees of land so inclosed, where such rights are not, or cannot be fixed, by agreement of such owners and lessees, and declaring an emergency."

The bill was read second time and the Senate refused to order the bill engrossed.

Senate Bill No. 150.

The Chair laid before the Senate, on second reading,

S. B. No. 150, A bill to be entitled "An Act preventing speculation of public printers, and to prevent public printers from reproducing and disposing of matter printed under public contract and profiting thereby without the consent of the State; defining the necessary offenses and fixing the penalty, and declaring an emergency."

The committee report, with amendment, was adopted.

The bill was read second time and passed to engrossment.

Senate Bill No. 165.

The Chair laid before the Senate, on second reading,

S. B. No. 165, A bill to be entitled "An Act to repeal Chapter 35, page 68 of the General Laws of the State of Texas, Thirty-eighth Legislature, Regular Session, in reference to accepting the provisions of the Sheppard-Towner Act, and declaring an emergency, said emergency being that the law as it now exists calls for appropriations to be made in the sum of \$72,901.04 out of the State Treasury of the State of Texas, and it is necessary to reduce appropriations in order to bring our expenditures within our revenues."

The bill was read second time and on motion of Senator Davis the further consideration of the bill was indefinitely postponed.

Senate Bill No. 177.

The Chair laid before the Senate, on second reading,

S. B. No. 177, A bill to be entitled "An Act to amend Article 1984a, Title 37, Chapter 14, of the Acts of the Regular Session of the Legisla-

ture of 1913, so as to provide that causes may be submitted on special issues upon the request of both parties in writing, and providing further that a court upon the written request of either party shall define in its charge to the jury the legal effect of the findings of the jury on any special issue submitted to it, and providing further that counsel shall have the right to discuss the legal effect of such findings to the jury, and declaring an emergency."

The bill was read second time and on motion of Senator Ward was laid on the table, subject to call.

Senate Bill No. 187.

The Chair laid before the Senate, on second reading,

S. B. No. 187, A bill to be entitled "An Act to amend Article 6758, Title 116 of the Revised Civil Statutes of the State of Texas, as amended by Chapter 144, printed Acts of the Regular Session of the Thirty-sixth Legislature; providing that the Ranger force shall be under the command of and operated under the direction of the Governor acting by and through the Adjutant General, and defining the purposes for which rangers may be used and making the acts done by rangers, except in this Act provided illegal and void, and declaring an emergency."

The bill was read second time and Senator Bailey offered the following amendment, which was read and adopted:

Amend S. B. No. 187 by adding after the word "Sheriff," line 30, page 1, of the printed bill the words "District Judge."

Joint Session.

The Chair here announced that the hour, 11 o'clock a. m., had arrived, which time the Senate was to repair to the Hall of the House of Representatives to sit in joint session, to hear the address of Dr. Hamilton Holt, international exponent of the League of Nations.

The Senate went to the House in order and was presided over by Lieutenant Governor Miller. At the conclusion of the address, the Senate returned to its chamber.

In the Senate.

On motion of Senator Wood, the Senate at 12 m. recessed until 2 o'clock today.

After Recess.

The Senate was called to order at 2 o'clock by Lieutenant Governor Miller, who announced that, in accordance with previous arrangement, the Senate would proceed to the Hall of the House of Representatives for the purpose of being present in joint session to witness the presentation of the diary of Captain Adolphus Sternes, being a donation to the State library.

In the Senate.

The Senate reconvened for the afternoon session at 2:45 o'clock.

Senate Bill No. 187.

Action recurred on the pending business, S. B. No. 187, the question being on engrossment.

The Senate refused to order the bill engrossed, by the following vote:

Yeas—11.

Fairchild.	Real.
Holbrook.	Russek.
Moore of Hunt.	Triplett.
Moore of Cooke.	Ward.
Murphy.	Wirtz.
Parr.	

Nays—17.

Berkeley.	Pollard.
Bledsoe.	Price.
Davis.	Reid.
Floyd.	Smith.
Hardin of Erath.	Strong.
Hardin of Kaufman	Stuart.
Lewis.	Witt.
Miller.	Woodward.
Parnell.	

Absent—Excused.

Bowers.

(Pair Recorded.)

Senator Wood (present), who would vote nay; with Senator Bailey (absent), who would vote yea.

Special Order—Simple Resolution No. 16.

The Committee on State Affairs here made the following reports:

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred the reports of Senators Woodward, Russek, Hardin of Kaufman and Ward, a majority of the special committee appointed in pursuance of Simple Resolution No. 16, and to whom was also referred the report of Senator Price, a minority of said committee, have had the same under consideration and I am instructed to report same back to the Senate with the recommendation that the report of the majority of said committee be adopted.

WIRTZ, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, a minority of your Committee on State Affairs, to whom was referred the reports of Senators Woodward, Russek, Hardin of Kaufman and Ward, a majority of the special committee appointed in pursuance of Simple Resolution No. 16, and to whom was also referred the report of Senator Price, a minority of said committee, have had the same under consideration and beg leave to differ with the majority and report same back to the Senate with the recommendation that the report of the minority of said committee do pass.

WOOD.

The Chair then laid before the Senate the special order for this hour, the same being Simple Resolution No. 16, together with the above committee reports.

Senator Wirtz moved to suspend the above order of business and take up, out of its order, S. B. No. 252, a bill containing the same subject matter.

Senator Price moved to table the motion to suspend, which motion to table was lost, by the following vote:

Yeas—14.

Berkeley.	Parnell.
Bledsoe.	Pollard.
Davis.	Price.
Floyd.	Reid.
Miller.	Smith.
Moore of Hunt.	Stuart.
Murphy.	Witt.

Nays—14.

Fairchild.	Russek.
Hardin of Erath.	Strong.
Hardin of Kaufman	Triplett.
Holbrook.	Ward.
Moore of Cooke.	Wirtz.
Parr.	Wood.
Real.	Woodward.

Absent.

Bailey.

(Pair Recorded.)

Senator Lewis (present), who would vote yea; with Senator Bowers (absent), who would vote nay.

The vote being a tie, the Chair, Lieutenant Governor Miller, voted "nay," and declared the motion to table lost.

Senator Wirtz then withdrew his motion to suspend the regular order of business, and action recurred on the consideration of Simple Resolution No. 16, and the committee reports.

Senator Wirtz moved to adopt the majority committee report, and Senator Price moved, as a substitute, to adopt the minority committee report.

The question was then discussed at length.

Pending the discussion the hour, 3:30 o'clock p. m., having been announced, which hour the Senate was to go into executive session, the Chair held that the matter under discussion being a special order, it would prevail until completed, over another special order. Senator Holbrook moved that the executive session be deferred until tomorrow at 3 o'clock p. m., which motion prevailed.

Action recurred on the substitute motion by Senator Price to adopt the minority committee report.

After discussion, Senator Wirtz moved to table the Price substitute motion, which motion to table was adopted, by the following vote:

Yeas—19.

Berkeley.	Parr.
Fairchild.	Real.
Floyd.	Russek.
Hardin of Erath.	Smith.
Hardin of Kaufman	Strong.
Holbrook.	Ward.
Miller.	Wirtz.
Moore of Cooke.	Witt.
Murphy.	Woodward.
Parnell.	

Nays—9.

Bledsoe.	Reid.
Davis.	Stuart.
Moore of Hunt.	Triplett.
Pollard.	Wood.
Price.	

Present—Not Voting.

Bailey.

(Pair Recorded.)

Senator Lewis (present), who would vote nay; with Senator Bowers (absent), who would vote yea.

The majority report was then adopted, by the following vote:

Yeas—19.

Berkeley.	Parr.
Fairchild.	Real.
Floyd.	Russek.
Hardin of Erath.	Smith.
Hardin of Kaufman	Strong.
Holbrook.	Ward.
Miller.	Wirtz.
Moore of Cooke.	Witt.
Murphy.	Woodward.
Parnell.	

Nays—9.

Bledsoe.	Reid.
Davis.	Stuart.
Moore of Hunt.	Triplett.
Pollard.	Wood.
Price.	

Present—Not Voting.

Bailey.

(Pair Recorded.)

Senator Lewis (present), who would vote nay; with Senator Bowers (absent), who would vote yea.

Senate Bill No. 252.

The Chair then laid before the Senate, on second reading,

S. B. No. 252, A bill to be entitled "An Act granting to every person against whom any judgment of conviction has heretofore been rendered by the Senate of the State of Texas in any impeachment proceedings, a full and unconditional release of any and all acts and offences of which any such person was so convicted under and by virtue of any such judgment, and to cancel and remit any and all punishment fixed or assessed by any such judgment of said Senate, including that of disqualification to hold any office of honor, trust or profit under the State of Texas, and declaring an emergency."

The committee report, that the bill be not printed, was adopted.

The Senate rule requiring committee reports to lie over for one day was suspended by unanimous consent.

Senator Pollard called for the reading of the bill in full.

The bill was read second time and passed to engrossment, by the following vote:

Yeas—21.

Berkeley.	Parr.
Davis.	Pollard.
Fairchild.	Real.
Floyd.	Russek.
Hardin of Erath.	Smith.
Hardin of Kaufman	Strong.
Holbrook.	Ward.
Miller.	Wirtz.
Moore of Cooke.	Witt.
Murphy.	Woodward.
Parnell.	

Nays—6.

Bledsoe.	Reid.
Moore of Hunt.	Stuart.
Price.	Wood.

Present—Not Voting.

Bailey.

Triplett.

(Pair Recorded.)

Senator Lewis (present), who would vote nay; with Senator Bowers (absent), who would vote yea.

On motion of Senator Wirtz, the constitutional rule requiring bills to be read on three several days was suspended and S. B. No. 252 put on its third reading and final passage, by the following vote:

Yeas—27.

Berkeley.	Parr.
Bledsoe.	Pollard.
Davis.	Real.
Fairchild.	Reid.
Floyd.	Russek.
Hardin of Erath.	Smith.
Hardin of Kaufman	Strong.
Holbrook.	Stuart.
Lewis.	Ward.
Miller.	Wirtz.
Moore of Hunt.	Witt.
Moore of Cooke.	Wood.
Murphy.	Woodward.
Parnell.	

Nays—1.

Price.

Present—Not Voting.

Bailey.

Triplett.

Absent—Excused.

Bowers.

The bill was read third time and passed finally, by the following vote:

Yeas—21.

✓ Berkeley.	✓ Parr.
Davis.	✓ Pollard.
Fairchild.	Real.
✓ Floyd.	✓ Russek.
Hardin of Erath.	Smith.
✓ Hardin of Kaufman	Strong.
Holbrook.	Ward
Millier.	Wirtz.
Moore of Cooke.	✓ Witt.
Murphy.	✓ Woodward.
Parnell.	

Nays—6.

Bledsoe.	Reid.
Moore of Hunt.	Stuart.
Price.	Wood.

Present—Not Voting.

Bailey.	Triplett.
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(Pair Recorded.)

Senator Lewis (present), who would vote nay; with Senator Bowers (absent), who would vote yea.

Adjournment.

On motion of Senator Wood the Senate at 6:30 o'clock p. m., adjourned until tomorrow morning at 10 o'clock.

APPENDIX.

University Regents—Term of Office.

1. The terms of office of the present Board relate back to the organization of the Board in 1913 under the constitutional amendment of November, 1912, and the Act of 1913 passed pursuant to said amendment.

2. The term of office of a regular appointee of the Board of Regents begins with his appointment, and confirmation by the Senate in Regular Session, and expires at the convening of the Regular Session of the second Legislature thereafter.

3. The term of office of a vacancy appointee runs only for the unexpired term of his predecessor.

4. The terms of office of one-third of the members of the Board expire during each Regular Session of the Legislature.

Attorney General's Department,
Austin, Texas, February 9, 1925.
Senators Murphy, Wirtz, Holbrook,
Moore of Cooke, and Russek—Sen-
ate Chamber, Austin, Texas.

Gentlemen:

On February 3, 1925, there was transmitted to this Department Senate Simple Resolution No. 25, which reads as follows:

"Whereas, By an amendment to the Constitution of this State adopted November, 1912, and proclaimed December, 1912, and known as Section 30a, Article 16, the number and terms of office of the members of the Board of Regents is prescribed to be fully regulated by law; and

"Whereas, By Act of the Legislature, 1913, known as Articles Nos. 4042, a, b and c, provision is made for the appointment of the members of the Board of Regents, one-third of the members to be appointed at each Regular Session of the Legislature; and

"Whereas, On February 10, 1913, Governor Colquitt submitted the names of seven Regents and at a later time submitted the names of two more, and they were confirmed; and,

"Whereas, Considerable confusion exists as to the date of the terms of office of the members of the Board of Regents and it is the desire of the Senate to be correctly advised as to the date of the terms of office;

"Resolved, That the Attorney General of Texas be, and he is hereby requested to advise the Senate, the dates when the term of each member of the Board of Regents of the University of Texas begins and expires, and the length of term of each, and whether their terms begin and expire on the same day of the month, though in different years, and whether the appointment of a Regent to succeed another is for a full term of six years from the date of the appointment or for the unexpired portion of the term."

The resolution embraces several inquiries of this Department: First, the dates when the term of each member of the Board of Regents of the University of Texas begins and expires; second, the length of term of each member; third, whether their terms begin and expire on the same day of the month, though in different years; and, fourth, whether the appointment of a Regent to succeed another is for a full term of six years from the date of the appointment, or for the unexpired term.

By an amendment to the Constitution of this State adopted in Novem-

ber, 1912, and proclaimed in December, 1912, it was provided as follows:

"The Legislature may provide by law that the members of the Board of Regents of the State University and Board of Trustees or Managers, of the educational, eleemosynary, and penal institutions of the State, and such boards as have been, or may hereafter be established by law, may hold their respective offices for the term of six years, one-third of the members of such boards to be elected or appointed every two years in such manner as the Legislature may determine; vacancies in such offices to be filled as may be provided by law, and the Legislature shall enact suitable laws to give effect to this section."

In pursuance to such amendment to the Constitution, the Legislature in 1913 enacted three articles, known now as Articles 4042 a, b, and c. The first article provides that the Board of Regents of the University shall be composed of nine persons, and other provisions not material here. The second article provides that the members of such Board shall be selected from different portions of the State, and shall be nominated by the Governor and appointed by and with the advice and consent of the Senate. This article further provides, "In the event of a vacancy on said Board, the Governor shall fill said vacancy until the convening of the Legislature and the ratification by the Senate. The members of said Board who shall be in office at the time this Act takes effect shall continue to exercise their duties until the expiration of their respective terms, as shall be determined according to the requirements of Section 3 (Article 4042c), and additional members shall be appointed in the manner prescribed herein, to fill out the terms of the members herein provided for." The third article mentioned above provides that the membership shall be divided into equal classes, numbered one, two and three, as determined by each Board at its first meeting after this Act shall become a law, which classes shall hold their offices two, four and six years, respectively, from the time of their appointment. It further provides, "And one-third of the members of such Board shall hereafter be appointed at each Regular Session of the Legislature to supply the vacancies made by the provisions of this Act and in the manner provided for in

Section two (Article 4042b) who shall hold their offices for six years, respectively."

The answer to the inquiries made by the resolution requires a construction and interpretation of the Act passed by the Legislature pursuant to the constitutional amendment, as well as certain other sections of the Constitution which will be hereinafter mentioned. It has been somewhat difficult to get a compilation of the facts with reference to the many appointments made by the different executives since 1913 for membership on the Board of Regents of the University, but we have secured from the University Archives a compilation showing in chronological order several Regents and appointees since the year 1913 down to and including the year 1924, which is attached to and made a part of this opinion for your information.

On February 8, 1913, Governor Colquitt nominated, and the Senate thereafter in a short time confirmed, W. H. Burgess, F. W. Cook, George W. Littlefield, Clarence Ousley, Alex Sanger, J. D. Sayers and W. H. Stark. On June 7, Joseph Faust was appointed and on July 1, A. W. Fly was appointed, both in the year 1913, and they were confirmed by the Senate August 12, 1913. The Honorable J. D. Sayers resigned August 21, 1913, and Will C. Hogg was appointed to succeed him August 22, 1913. Joseph Faust resigned September 20, 1913, and J. W. Graham was appointed to succeed him on the same date.

On September 20, 1913, the Board of Regents organized under the new law which had then taken effect, and drew lots for the two, four and six year terms, in compliance with the law. Those who drew two year terms were Ousley, Graham and W. H. Stark. Those who drew four year terms were Burgess, Hogg and Sanger. Those who drew six year terms were Cook, Fly and Littlefield.

It is made plain by the provisions of Article 4042c above quoted, that one-third of the members of the Board of Regents shall be appointed at each Regular Session of the Legislature to supply the vacancies made by the provisions of the Act. In pursuance of that portion of the statute, appointments were made in January, 1915, to fill the places made vacant by the expiration of the terms of the above named Regents who had drawn two year places, and the persons named in January, 1915, were Dr. George

McReynolds, Dr. S. J. Jones and M. Faber. Prior to the expiration of Mr. Ousley's term, he resigned August 3, 1914, and Dr. McReynolds was appointed to succeed him, and then Dr. McReynolds was appointed to succeed himself in January, 1915, and these appointments were all confirmed by the Senate on February 3, 1915.

It is therefore plain that the intention of the Legislature in the enactment of the law mentioned, as well as the constitutional provision, Section 30a, Article 16, above, that one-third of the members of the Board were to be appointed every two years, and this was the interpretation placed on it by the executive in making the appointments. The appointments, however, of Dr. McReynolds, Dr. Jones and M. Faber in January, 1915, were for six year terms, as were also the appointments made in 1917 at the expiration of the terms of the original Board who drew the four year terms, and also the appointments made in 1919 at the expiration of the terms of those who drew six year terms.

The words used in Article 4042c, "These classes shall hold their offices, two, four and six years, respectively, from the time of their appointment" were interpreted, as above shown, to mean that those who drew two year terms should go out of office at the convening of the next Regular Session of the Legislature, which was in January, 1915. The same is true as to the four and six year terms, so that the words "the time of the appointment" in this connection related to the original terms as fixed by the provisions of the Act of 1913. It thereafter became the duty of the Governor, because he is the appointing power, to nominate to the Senate at each Regular Session of the Legislature thereafter, three members of such Board. This interpretation of the law is supported by the plain language of the law, as well as by the necessity of uniformity and regularity of the operation of the law, that is, in having one-third of the members of the Board to be appointed every two years during the Regular Session of the Legislature.

It is a general rule that where no time is fixed by law for the commencement of an official term, it begins to run from the date of the appointment or election, as the case may be, rather than the time of the qualification of the officer, because, obviously, if this were not the rule it would enable him to enlarge the term of his predecessor

without shortening his own, or if he should be his own successor he would be constantly gaining by his continual neglect to qualify. It is also a rule of law that where the law prescribes the length of the term, but no date is fixed for the beginning or ending of the term, it has been held that the appointive power has a right to fix the commencement of the term, and when the same is fixed by the appointment first made, all subsequent terms of office necessarily have reference to such initial period. Vol. 22 R. C. L. Sec. 251, and cases there cited. It is further, however, to be observed that where the Constitution of a state has prescribed the term of an office, the Legislature obviously has no power to alter it by either extending or shortening the period. It is a general rule, held to by most text writers, that of two possible modes of construction, that the one should be followed which fixes the term of office at the shortest period, and the practical construction of the statute as exemplified by the interpretation placed on it by the appointing power or by the public officer himself, is a factor of considerable importance in reaching the proper construction of a law regulating the tenure of office. *Robertson vs. Coughlin*, 82 N. E. 678.

Where a provision exists in law that appointment shall be made by and with the advice and consent of the Senate, as in the law under consideration, the executive can only exercise such power without the advice and consent where, since the adjournment of the Senate, a vacancy exists by the death or resignation of the incumbent, or some other happening by which the duties of the office are no longer discharged. If the Senate be in session when the vacancy occurs, it can be filled only by and with the advice and consent of the Senate. *Mechem on Public Officers*, Sec. 134. If the vacancy occurs or exists while the Senate is not in session and the concurrence of the Senate has not been had, the appointment is temporary and contingent upon confirmation. In the event that the appointment is not confirmed by the Senate at its next session, the appointment becomes inoperative. But where the nomination is approved, the right and authority of the officer are held to relate back to the time of his appointment, and do not begin only with his confirmation. *Id.*, Sec. 134.

The above are general rules which

are sustained by the weight of authority, so far as we have been able to determine, in the construction of statutes relating to the tenure of office.

By the express terms of Article 4042b, in the event of a vacancy on said Board the Governor shall fill said vacancy until the convening of the Legislature and the ratification by the Senate. This plainly means that in the event of a vacancy on said Board during the adjournment of the Senate in the interim between its sessions, the Governor shall fill said vacancy by appointing some person who holds until the convening of the Legislature and ratification by the Senate. Of course, if the appointee is not ratified or confirmed, then the office immediately becomes vacant. If, however, he is confirmed, his title to the office relates back to the time of his appointment. For instance, when Honorable Clarence Ousley drew a two year term, resigned in August, 1914, the Governor appointed Dr. McReynolds. Dr. McReynolds was confirmed by the Senate and was appointed for a six year term in January, 1915. His confirmation for Ousley's term by the Senate related back to December 11, 1914, when he was first appointed in the place of Mr. Ousley.

It is a well settled rule when both the duration of a term of office and the time of its commencement or termination, are fixed by the Constitution or Statute, a person elected or appointed to fill a vacancy in such office holds only for the unexpired portion of the term. 22 R. C. L., Sec. 255, and 50 L. R. A., N. S. 343, note. See also *State vs. Rose*, 86 Pac., 296, 6 L. R. A. N. S. 843. It also seems to be the weight of authority that the term of office of one elected or appointed to fill a vacancy in a board of several officers will be held to be for the unexpired term only, where the clear intent of the creating power is that the entire board shall not go out of office at once, but that different groups should retire in regularly recurring intervals. This is the very situation here, where it appears that the Legislature made it the duty of the appointive power to name to the Senate three Regents at each Regular Session of the Legislature to supply the vacancies made by the provisions of the Act of 1913 making three Regents' terms expire at intervals of two, four and six years. It is to be observed that the policy of the framers of our Constitution is that in filling

vacancies by appointment or by election, such appointment or election shall be to fill the unexpired term only. Section 27 of Article 16 of the Constitution provides specifically to this effect in cases of elections. Likewise, Section 12 of Article 4 of our Constitution provides that all vacancies in a State or district office, except members of the Legislature, shall be filled by the Governor by appointment, which if made during the session of the Legislature, same shall be with the advice and consent of two-thirds thereof, but if made during a recess, such person or some other person shall be nominated to the Senate during the first ten days of its session. If rejected, the office shall immediately become vacant. And this Section also makes other provisions prohibiting the Governor from appointing the same person who has been theretofore rejected by the Senate, and any appointment to fill a vacancy shall continue until the next session of the Senate or until the regular election to the office, should it sooner occur.

It is therefore plain, it seems to us, that an appointment to the Board of Regents of the University made by the Governor during the adjournment of the Senate to fill a vacancy caused by the death, resignation or some other cause, of a former member, empowers the appointee to occupy said office only until the next session of the Senate, when if confirmed, he holds said office for the unexpired portion of his predecessor's term. So far as we have been able to determine, this view is held by all the text writers on the subject, though, of course, there are conflicting decisions of courts, depending usually on the difference of wording of the particular statute under consideration.

It is certain beyond any doubt that the terms of office of the Regents of the University are six years. Of course, this applies only after the drawing provided for in the constitutional provision and the enactment of the Legislature pursuant thereto. It is likewise certain that one-third of the members of said Board shall be appointed at each Regular Session of the Legislature after the enactment of Articles 4042 a, b, and c. Since it is made the duty of the appointing power to appoint at each Regular Session of the Legislature, it seems to us to be clear that the beginning of a regular term of office of a Regent is during the Regular Session of the Legislature at which he is appointed and

confirmed. Under the particular wording of the statute, and in consonance with all well reasoned authority, his confirmation is necessary before he becomes entitled to the commission of the office. In some jurisdictions, it has been held that the commission is the expression of the will of the appointing power, and that it is not until the commission is issued that the appointment is consummated. This, however, cannot be very material for the determination of the inquiries of the resolution. But, it being the duty of the appointive power to appoint three persons to the Board of Regents at each Regular Session of the Legislature, and the time for the Regular Session being fixed, it must be true, we think, that the beginning of the term of such members must be during that session. There is, however, a provision in our Constitution, Section 17 of Article 16, which provides that "all officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified." This provision is plain and has been interpreted many times by the courts. It would therefore seem that members of the Board of Regents could be what is commonly called "hold-overs," unless in accordance with the provisions of the articles mentioned above the appointing power nominated their successors to the Senate and they were confirmed. We do not think it particularly material as to the day of the month that a Regent is appointed, because as stated heretofore, the term of office is for six years beginning during the Regular Session of the Legislature and ending at the convening of or during the session of the second succeeding Regular Session thereafter. By the chart attached to this opinion it is apparent that this has been the interpretation placed upon the constitutional provision and the law since their enactment, until the year 1923 when there were no appointments made to the Board of Regents until June of that year. Under the plain language of the statute it would appear that there could be no doubt about this interpretation. For instance, the Honorable Will C. Hogg was appointed on August 22, 1913. He drew a four year term. His successor, J. W. Butler, was appointed on January 27, 1917. Butler resigned, and there were several appointments made, namely, John Mathis, G. W. Breckenridge, both of whom resigned, and finally L. J. Wortham was appointed

and proceeded to fill out the term of J. W. Butler which expired at the convening of the Legislature in January, 1923, though as stated above, the appointing power made no appointments in that year until June, when C. M. Caldwell was appointed.

The phrase, "term of office," means the fixed period of time for which the office may be held. 29 Cyc. 1396. Since the Legislature, under the constitutional provision, has no power to change the term of office, either to shorten or to lengthen it, the Act of the Legislature of 1913 cannot have placed upon it any other interpretation than one which fixes the beginning of the terms of office of three members of the Board at each Regular Session of the Legislature thereafter, to serve six years from the date of such session of the Legislature. The appointments, if not made during the session of the Legislature, are not consummated until the appointments have been confirmed by the Senate, and if made in June of the year 1923, as some have been made, it seems to us that it must be said that the expiration of those terms of office will be at the convening of the Regular Session of the Legislature in 1929.

It is not possible for this Department to specifically answer the inquiry of the resolution as to the particular dates when the term of each member of the Board of Regents, as now constituted, begins and expires, because we have no information as to the places which were intended to be filled by the recent appointments of the Governor as shown by the Executive Message on Page 247, Senate Journal of date February 2, 1925. The chart attached to this opinion gives as much information as is possible to get from the commission register in the Secretary of State's office. We are, however, of the opinion that the term of office of Mrs. H. J. O'Hair, who was appointed in May, 1921, will expire at the convening of the Regular Session of the Legislature in 1927, unless of course under Section 17 of Article 16 of the Constitution her successor is not appointed and confirmed during that session; that the term of Mr. R. G. Storey, filling the term of Marshall Hicks, will expire, unless the above named article of the Constitution shall apply, at the convening of the Regular Session of the Legislature in 1929, since he was confirmed by the Senate to fill out the unexpired portion of the term of Marshall Hicks

who was appointed in June, 1923; that of Mr. H. J. L. Stark's term, filling that of John Sealy, expired at the convening of the Regular Session of the Legislature in 1925, and that he is a hold-over under the above named article of the Constitution.

The above illustrations, we think, should serve to show that, in our opinion, the terms of the several members of the Board of Regents of the University of Texas is fixed by Article 4042c and the constitutional provision under which said Article was enacted, which require that the appointing power shall appoint three members of such Board at each Regular Session of the Legislature after the Act takes effect. Therefore, the term of office is for six years beginning with that session of the Legislature and ending with the convening of the Regular Session of the second Legislature thereafter.

Further explaining the effect of this opinion, we respectfully advise that the term of office of the person who is filling the term of E. H. Perry, who was appointed in 1921, will expire with the convening of the Regular Session of the Legislature in 1927; that of the person filling the term of F. C. Jones will expire at the convening of the Regular Session of the Legislature in 1927; that of the person filling the term of Dr. Joe Wooten and that of C. M. Caldwell, with the convening of the Regular Session in 1929; and that of those persons filling the terms of F. W. Cook, John Sealy and G. W. Littlefield, expired with the convening of this Regular Session of the Legislature, and that the Regents now filling those places are

hold-overs under the constitutional provision above quoted.

Yours very truly,

WRIGHT MORROW,

First Assistant Attorney General

The foregoing opinion has been considered in conference, adopted, and is now ordered filed.

DAN MOODY,
Attorney General.

The University of Texas
Austin

Office of the Registrar.

September 20, 1913.

"This being the first meeting of the Board since the passage of the new law increasing its membership to nine, and dividing the number into groups of three, the terms of one group to expire each two years, the Board went into organization by the election of Clarence Ousley Chairman and Fred W. Cook Vice Chairman.

"Slips of paper were prepared, three marked 'Two years,' three marked 'Four years,' and three marked 'Six years.' Each Regent drew for terms with the following results

"Two-year Regents: Ousley, Stark, Graham.

"Four-year Regents: Burges, Hogg, Sanger.

"Six-year Regents: Cook, Fly, Littlefield."

The above is a correct copy of a portion of the minutes of the meeting of the Board of Regents of the University held on September 20, 1913

I still have the "slips of paper" referred to.

E. J. MATHEWS, Secretary
(Seal). Board of Regents.

**TENURE OF OFFICE OF THE BOARD OF REGENTS OF THE UNIVERSITY
1913-1924.**

On February 8, 1913, the Governor nominated and the Senate confirmed the following persons to be Regents of the University: Cook, Geo. W. Littlefield, Clarence Ousley, Alexander Sanger, J. D. Sayers and W. H. Stark. Joseph Faust was appointed in his place July 1, 1913, the date when the new law governing the Board of Regents went into effect. Hon. J. D. Sayers resigned in his place August 22, 1913. Joseph Faust resigned September 20, 1913, and J. W. Graham was appointed in his place. The Board of Regents organized under the new law September 20, 1913. The result of the drawing of lots for the following classification:

Year.	Two Year Term.			Four Year Term.			
1913	Ousley, C. Apptd. 2-8-13 Rsgd. 8-13-14 McReynolds, G. S. Apptd. 12-11-14	Graham, J. W. Apptd. 9-20-13	Stark, W. H. Apptd. 2-8-13	Burges, W. H. Apptd. 2-8-13 Rsgd. 5-4-14 Harrell, Dave Apptd. 5-6-14	Hogg, W. C. Apptd. 8-22-13	Sanger, A. Apptd. 2-8-13	Co A
1915	McReynolds, G. S. Apptd. 2-3-15	Faber, M. Apptd. 2-3-15 Rsgd. 11-22-16 Brentz, W. R. Apptd. 12-6-16	Jones, J. S. Apptd. 2-3-15				
1917	Rsgd. Love, W. G. Apptd. 6-1-17		Rmvd. 5-29-17 Rsgd. 10-11-17 Tucker, J. P. Apptd. 5-29-17 Enjoined 5-31-17 Rsgd. 7-12-17 Ward, J. L. Apptd. 7-12-17 Enjoined 7-12-17 Rjctd. 8-28-17 Kemp, J. A. Apptd. 10-11-17	Allen, W. P. Apptd. 1-27-17	Butler, J. W. Apptd. 1-27-17 Rsgd. Mathis, John Apptd. 5-30-17 Rsgd. Brackenridge, G. W. Apptd. 8-28-17	Lawrence, D. H. Apptd. 1-27-17 Rjctd. 2-27-17 Kelley, C. E. Apptd. 3-19-17	
1919	Rjctd. 8-28-17 Daugherty, W. H. Apptd. 8-29-17			Rsgd. 8-28-17 Steiner, R. Apptd. 10-11-17	Wortham, L. J. Apptd. 1-15-19		Co A
1921	Rsgd. 11-15-20 Brackenridge, G. W. Apptd. 11-15-20 Died 12-28-20			Rsgd. 10-5-20 Folts, W. H. Apptd. 10-5-20			
1921	Perry, E. H. Apptd. 1-3-21 Rsgd. 4-7-21 Harrington, H. H. Apptd. 5-11-21 Rsgd. 10-28-21 Cochran, S. P. Apptd. 11-1-21	Jones, F. O. Apptd. 5-11-21	O'Hair, Mrs. H. J. Apptd. 5-11-21				
1923	Rsgd. 5-16-25 Marsh, Ohas. E. Apptd. 10-17-24	Rsgd. 5-16-24 Hankamer, Earl C. Apptd. 5-27-24		Wooten, Joe Apptd. 6-28-23	Caldwell, O. M. Apptd. 6-28-23	Hicks, M. Apptd. 6-28-23 Rsgd. 12-22-23 Storey, R. G. Apptd. 1-3-24	D Roy A
					Rsgd. 3-11-24 Whaley, W. S. Apptd. 5-13-24		

Committee Reports.

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 203, A bill to be entitled "An Act to amend Subdivision 3 of Article 7507 of Chapter 11, Title 126, Revised Civil Statutes of 1911, pertaining to the payment of county taxes on lands acquired and owned by the State for the purpose of establishing thereon State farms and employing thereon convict labor on State account so as to provide for the payment of taxes on such lands levied and assessed for the purpose of paying the interest and sinking fund to redeem at maturity bonds voted and approved by the Attorney General prior to the acquisition of such land by the State, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, with the following committee amendments:

"Amend S. B. No. 203, page 2, line 8, by striking out all of line 8 after the semicolon, and by striking out all of lines Nos. 9, 10, 11, 12, 13, 14 and all of line No. 15 down to and including the word "State," and insert in lieu thereof the following:

and except, further, that land heretofore or hereafter acquired and owned by the State for the purpose of establishing thereon State farms and employing thereon State convict labor, that lies within any school district upon and in which bonds for school purposes have been voted by the people and approved by the Attorney General prior to the acquisition of such land by the State**

We also suggest the following committee amendment:

Amend S. B. No. 203, page 2, by striking out all of lines Nos. 22 and 23 and all of line No. 24 down to and including the word "system," and insert in lieu thereof the following:

***And said taxes shall be paid annually out of the revenue derived from such State farm or farms, respectively, by the Penitentiary Commissioners and shall be charged to the expense account of operating such farm or farms. No debt shall be created against the general rev-

enue of the State in case of failure to pay said taxes out of the revenue of such farm or farms."

WIRTZ, Chairman.

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 224, A bill to be entitled "An Act to amend Article 3883 of Chapter 40 of the General Laws of the State of Texas passed by the Thirty-sixth Legislature at its Third Called Session, regulating the fees allowed county officers in certain counties in this State, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

WIRTZ, Chairman.

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on State Affairs, to whom was referred

S. B. No. 252, A bill to be entitled "An Act granting to every person against whom any judgment of conviction has heretofore been rendered by the Senate of the State of Texas in any impeachment proceeding, a full and unconditional release of any and all acts and offenses of which any such person was so convicted under and by virtue of any such judgment, and to cancel and remit any and all punishment fixed or assessed by any such judgment of said Senate, including that of disqualification to hold any office of honor, trust or profit under the State of Texas, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass, and that it be not printed, it having been printed in the Senate Journal in connection with the report of the special committee appointed by virtue of Senate Resolution No. 16.

WIRTZ, Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 10, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, a majority of your Committee on State Affairs, to whom was referred

S. J. R. No. 8, A joint resolution "Proposing to amend Section 5 of Article 15 of the Constitution of the State of Texas by adding thereto a method of procedure in removing disabilities of any person removed from office in this State by impeachment proceedings and restoring to such person the right to hold public office."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

WIRTZ, Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 9, 1925.
Hon. Barry Miller, President of the Senate.

Sir: I, a minority of your Committee on State Affairs, to whom was referred

S. J. R. No. 8.

Beg leave to differ from the majority of said committee and recommend to the Senate that the same do pass.

WOOD.

Committee Room,
Austin, Texas, Feb. 9, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

H. B. No. 79, A bill to be entitled "An Act amending Article 5693, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, as amended by Chapter 123 of the General Laws of Texas passed at the Regular Session of the Thirty-third Legislature, relating to notes secured by certain deeds of trust, or mortgages on land, and when the same shall be barred by limitation, and providing that powers of sale under deeds of trust or mortgages shall not be executed after the notes secured thereby are barred by limitation, and amending Article 5695, Chapter 2, Title 87, Revised Civil Statutes of Texas, 1911, as amended by Chapter

123, General Laws of Texas, passed at the Regular Session of the Thirty-third Legislature and as amended by Chapter 27, General Laws of Texas, passed at the First Called Session of the Thirty-third Legislature, relating to the renewal and extension of liens that are secured by deeds of trust, mortgages, or vendor's liens on real estate, and providing that thereafter said Articles shall read as herein, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

FAIRCHILD, Vice-Chairman.

Committee Room,
Austin, Texas, Feb. 9, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 262, A bill to be entitled "An Act to amend Article 2820, Title 48, Chapter 15, Revised Statutes 1911, providing for official ballots and other supplies to be furnished in school trustee elections, providing for returns of said elections to be made to the county judge, providing for canvassing said returns and issuing commissions, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

FAIRCHILD, Vice-Chairman.

Committee Room,
Austin, Texas, Feb. 9, 1925.
Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 249, A bill to be entitled "An Act to amend Section 186 of Chapter 23, of the Acts of the Thirty-sixth Legislature of the State of Texas, known as the Negotiable Instrument Act, by adding thereto the following: 'And in no event shall the bank be held liable for any loss occasioned by the negligence of the drawer of a check so drawn in a manner to be easily changed and difficult to detect,' and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do pass.

FAIRCHILD, Vice Chairman.

(Majority Report.)

Committee Room,
Austin, Texas, Feb. 9, 1925.

Hon. Barry Miller, President of the Senate.

Sir: We, your Committee on Civil Jurisprudence, to whom was referred S. B. No. 178, A bill to be entitled "An Act to amend Article 5214 of the Revised Civil Statutes of 1911, of the State of Texas, relating to juries in the district court and providing that nine members of a jury in civil cases in district court may return a verdict upon each of said nine members signing such verdict, and declaring an emergency."

Have had the same under consideration, and I am instructed to report the same back to the Senate with the recommendation that it do not pass.

FAIRCHILD, Vice Chairman.

(Minority Report.)

Committee Room,
Austin, Texas, Feb. 9, 1925.

Hon. Barry Miller, President of the Senate

Sir: We, a minority of your Committee on Civil Jurisprudence, to whom was referred

S. B. No. 178, A bill to be entitled "An Act to amend Article 5214 of the Revised Civil Statutes of 1911, of the State of Texas, relating to juries in the district court and providing that nine members of a jury in civil cases in district court may return a verdict upon each of said nine members signing such verdict, and declaring an emergency."

Have had the same under consideration and beg leave to differ with the majority of the committee, and report the bill back to the Senate with the recommendation that it do pass.

MOORE of Cooke.
BLEDSE.

TWENTY-THIRD DAY.

Senate Chamber,
Austin, Texas,

Wednesday, February 11, 1925.

The Senate met at 10 o'clock a. m. pursuant to adjournment, and was called to order by Lieutenant Governor Barry Miller.

The roll was called, a quorum being present, the following Senators answering to their names:

Bailey.	Bowers.
Berkeley.	Davis.
Bledsoe.	Fairchild.

Floyd.	Real.
Hardin of Erath.	Reid.
Hardin of Kaufman.	Russek.
Holbrook.	Smith.
Lewis.	Strong.
Miller.	Stuart.
Moore of Hunt.	Triplett.
Moore of Cooke.	Ward.
Murphy.	Wirtz.
Parnell.	Witt.
Parr.	Wood.
Pollard.	Woodward.
Price.	

Prayer by the chaplain.

Pending the reading of the Journal of yesterday, the same was dispensed with on motion of Senator Davis.

See appendix for committee reports.

Bills and Resolutions.

By Senator Wood, by request:

S. B. No. 271, A bill to be entitled "An Act to establish a State Board of Embalmers and Undertakers; to provide a system of examinations for embalmers' licenses and undertakers' licenses; to provide for the registration and licensing of embalmers and undertakers to practice their profession or business in the State of Texas; to provide for the better protection of life and health and the prevention for the spread of infectious and contagious diseases; to provide regulations for the revocation of embalmers' licenses and undertakers' licenses by the State Board of Embalmers and Undertakers; defining who are embalmers and undertakers; defining violations of this Act and fixing penalties therefor; repealing all laws and parts of laws in conflict herewith; fixing a time when same shall take effect, and declaring an emergency."

Read first time and referred to Committee on Public Health.

By Senator Holbrook:

S. B. No. 272, A bill to be entitled "An Act amending Section 4 of Chapter 29 of the General Laws of the Second Called Session of the Thirty-eighth Legislature so as to exempt from the inheritance tax therein provided bequests and devices passing to public charities, and declaring an emergency."

Read first time and referred to Committee on Civil Jurisprudence.

By Senator Holbrook:

S. B. No. 273, A bill to be entitled "An Act creating the Tavenner Independent School District in Fort Bend